

1 \*E-FILED 09-14-2010\*

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NOT FOR CITATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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LAILA BATTs,

No. C08-00286 JW (HRL)

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Plaintiff,

**ORDER DENYING PLAINTIFF'S  
MOTION FOR MODIFICATION AND  
ENFORCEMENT OF NONPARTY  
SUBPOENAS**

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v.  
COUNTY OF SANTA CLARA, PETER  
CRANDALL, CHRISTINA ARQUERO, and  
DOES 3-20,

[Re: Docket No. 185]

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Defendants.

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Plaintiff Laila Batts claims that during her 10-day incarceration at the Elmwood Women's Facility ("Elmwood") from January 5-14, 2007, defendants failed to diagnose and provide appropriate medical care for her ectopic pregnancy. She seeks damages for alleged violation of her civil rights (42 U.S.C. § 1983) and professional negligence.

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Batts served subpoenas seeking defendant Dr. Crandall's prior employment records. She also seeks records from several malpractice lawsuits reportedly filed against him several years ago, the most recent of which apparently was filed in 2002. She now moves to enforce the subpoenas. The subpoenaed nonparties — the Hinshaw, Draa, et al. law firm, Good Samaritan Medical Group (aka San Jose Medical Group), and NORCAL Mutual Insurance Company — oppose the motion. Defendants join in the nonparties' opposition. The matter was deemed appropriate for determination without oral argument. See CIV. L.R. 7-1(b).

1       Upon consideration of the moving and responding papers, this court denies the motion.  
2 Defendants and nonparties correctly note that the instant motion was not timely filed. See Civ.  
3 L.R. 26-2. Although this court excused plaintiff's tardiness (Docket No. 232), it appears that  
4 plaintiff has made other procedural missteps in connection with the instant motion. Most  
5 notable of these is her failure to meet-and-confer with the very entities whose documents are  
6 being sought. Batts' attempt to meet-and-confer with County counsel about these nonparty  
7 records is no substitute. And, this court rejects plaintiff's contention that she is not obliged to  
8 confer with nonparties prior to filing a motion seeking to compel the production of their  
9 records. In any event, Batts has failed to convince that the records sought are relevant or  
10 reasonably calculated to lead to the discovery of admissible evidence.<sup>1</sup>

SO ORDERED.

Dated: September 14, 2010

  
HOWARD BALLOCH  
UNITED STATES MAGISTRATE JUDGE

1        Although Batts contends that, by virtue of filing malpractice actions, the  
27 nonparty patients have waived their privacy rights, this court finds it unnecessary to rule on  
28 that issue. Nevertheless, the court notes that Batts has taken a somewhat different view with  
respect to defendants' efforts to compel documents pertaining to her that she claims is  
confidential. (See Docket No. 111).

1 5:08-cv-00286-JW Notice has been electronically mailed to:  
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